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22 **UNITED STATES DISTRICT COURT**
23 **CENTRAL DISTRICT OF CALIFORNIA**
24 **EASTERN DIVISION – RIVERSIDE**

25 BLUETRITON BRANDS, INC.,

26 Plaintiff,

27 v.
28 UNITED STATES FOREST SERVICE,
et al.,

Defendants.

Case No. 2:24-cv-09720-JGB-DTB

**BLUETRITON BRANDS, INC.’S
OPPOSITION TO MOTION TO
CONSOLIDATE**

Hearing Date: February 10, 2025
Hearing Time: 9:00 AM
Courtroom: 1
Judge: Hon. Jesus G. Bernal
Action Filed: August 6, 2024

2:24-CV-09720-JGB-DTB

1 SAVE OUR FORESTS
2 ASSOCIATION, INC.,

3 Plaintiff,

4 v.

5 UNITED STATES FOREST SERVICE,
6 *et al.*,

7 Defendants.
8

Case No. 5:24-cv-01336-JGB-DTB

Action Filed: June 25, 2024

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1 BlueTriton Brands, Inc. Plaintiff in No. 2:24-cv-09720-JGB-DTB, opposes the
2 motion of Save Our Forests Association, Inc. (SOFA), Plaintiff in No. 5:24-cv-01336-
3 JGB-DTB, to consolidate these cases into a single proceeding.

4 BlueTriton agrees that the cases are related, because they broadly involve the
5 transport of water BlueTriton collects in Strawberry Canyon. But the similarity ends
6 there. SOFA and BlueTriton each challenge different agency actions. SOFA
7 principally challenges the U.S. Forest Service's (USFS) issuance of a special use
8 permits to BlueTriton in 2018, 2022, and 2023. BlueTriton challenges USFS's denial
9 of BlueTriton's application for permit renewal in 2024. Under the Administrative
10 Procedure Act, each of these actions must be reviewed on its own administrative
11 record. So, within the parlance of Rule 42, the two cases do not involve "a common
12 *question of fact or law.*" Fed. R. Civ. P. 42(a) (emphasis added). Stated differently,
13 the background facts may be similar, and some of the applicable legal rules may be
14 the same, but the two cases arise out of distinct acts or occurrences and thus present
15 wholly different questions of law and fact for the Court to resolve.

16 For that reason, it is unclear at this stage whether "consolidation" would
17 achieve any efficiencies beyond those already achieved by assigning the two cases to
18 the same Judge under the Court's related-case procedure. Notably, SOFA's motion is
19 silent as to exactly how the cases should be consolidated. Perhaps that is because
20 there is no obvious candidate for achieving the efficiencies consolidation ordinarily
21 promises. There will be no trial, so consolidation is unnecessary for that purpose.
22 And each case will be resolved through its own summary judgment briefing, based on
23 separate administrative records. Moreover, because the Court has stayed No. 2:24-cv-
24 09720-JGB-DTB until the Fresno County Superior Court issues a decision on
25 BlueTriton's challenge to the State Water Resources Control Board's 2023 Order, *see*
26 ECF No. 90, consolidation would only serve to delay proceedings in SOFA's lawsuit.

27 After the stay is lifted in No. 2:24-cv-09720-JGB-DTB, the parties or the Court
28 might identify a specific reason that consolidation is necessary for the Court to

1 coordinate proceedings efficiently in the two cases. But that reason is not apparent
2 today. So in the absence of a clear benefit to further consolidation, BlueTriton
3 respectfully submits that the Court should deny SOFA's motion without prejudice.

4

5 Dated: January 17, 2025

HUNTON ANDREWS KURTH LLP

6

7 By: /s/ Brandon Marvisi

8 Brandon Marvisi

9 Attorneys for Plaintiff

10 BLUETRITON BRANDS, INC.

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CERTIFICATE OF COMPLIANCE

The undersigned counsel of record for BlueTriton Brands, Inc., certifies that this brief contains 381 words, which complies with Local Rule 11-6.1

Dated: January 17, 2025

HUNTON ANDREWS KURTH LLP

By: /s/ *Brandon Marvisi*
Brandon Marvisi
Attorneys for BlueTriton Brands, Inc.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to this action. My business address is 550 South Hope Street, Suite 2000, Los Angeles, California 90071-2627.

On January 8, 2025, I served the foregoing document(s) described as
**SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY
INJUNCTION**

on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

- By MAIL:** by placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as stated above.
 - By PERSONAL SERVICE:** I delivered the envelope by hand on the addressee, addressed as stated above.
 - By OVERNIGHT MAIL:** by overnight courier, I arranged for the above-referenced document(s) to be delivered to an authorized overnight courier service for delivery to the addressee(s) above, in an envelope or package designated by the overnight courier service with delivery fees paid or provided for.
 - By ELECTRONIC MAIL:** by causing a true and correct copy thereof to be transmitted electronically to the attorney(s) of record at the e-mail address(es) indicated above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 17, 2025, Los Angeles, California.

/s/ *Anuradha Das*

Anuradha Das